

Remarks

These Remarks are in reply to the outstanding Office Action.

Claims 1-10 are currently pending.

In reviewing the Office Action, Applicant has found that the Information Disclosure Statement (IDS) filed on November 12, 2007, that was returned is not completely initialized by the Examiner. Two references were cited in the IDS, however, the Examiner only initialed one. The other reference cited in the Non-Patent Literature section had not been lined through. Therefore, it is respectfully requested that the Examiner initial and return a fully initialized copy of the IDS.

Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,028,072 (*Kliger, et al.*) in view of U.S. Patent No. 6,055,573 (*Gardenswartz*).

The Applicant's attorney respectfully disagrees as the Office Action has not met its burden of proving obviousness for at least claim 1. In particular, the Office Action has not properly identified where the claimed "a user identification value that is included in a package of a product..." is disclosed in the cited art.

The Office Action at pages 3-5 states:

Kliger et al. disclose...converting the user identification value to a promotional information (the cookie from the user device is read as the identification value... However, Gardenswartz et. al. do [sic, does disclose] obtaining, by a user, a user identification value that is included in a package of a product that has been purchased by the user (see Figures 2a-2b, 3, 7-8)...It would have been obvious to modify Kliger et al. to provide a purchase based system to include as part of the profile 255 the purchase habits of the user, the motivation would be better marketing techniques.

As can be seen, the Office Action inconsistently states "the user identification value" is "the cookie..." disclosed in *Kliger et al.* and then states that *Gardenswartz*, and not *Kliger et al.*, discloses "a user identification value...in "Figures 2a-b, 3, 7-8." The Office Action has not clearly identified the scope and content of the cited art and the difference between the cited art and claim 1 as required under *Graham v. John Deer Co.* 383 U.S. 1, 148 USPQ 459 (1966).

Further, the Office Action generally states "Figures 2a-b, 3 and 7-8" in *Gardenswartz* disclose "a user identification value..." without specifying a particular reference numeral or component. Over thirty reference numerals are used in Figures 2a-b, 3 and 7-8 and yet the Office Action does not cite a single reference numeral or passage corresponding to the claimed "user identification value..."

Claims 2-10 depend from claim 1 and therefore are patentable for at least the reasons stated above in regard to claim 1.

Further, claim 7 calls for “the use identification value... [to be] an alphanumeric code that is located inside the package of the product.” The Office Action again cites Figures 2a-b, 3 and 7-8 in *Gardenswartz* without providing a single reference numeral in the cited Figures. *Gardenswartz’s* Figures 2a-b, 3 and 7-8 may disclose a “customer identification” or “cookie numbers,” but nothing in the cited Figures illustrate that the “use identification value is an alphanumeric code that is located inside the package of the product.”

Based on these remarks, reconsideration of claims 1-10 is respectfully requested.

The Examiner’s prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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